

# MA DEP Waste Site Cleanup Regulations

310 CMR 40.0000

## Is Asbestos Regulated Under the MCP?

- ◆ Is asbestos an "*oil or hazardous material*"?
  - **Yes.**
  - Listed at 310 CMR 40.1600
  - *Hazardous material* means...any material in whatever form which, because of its...toxic...characteristics...constitutes a present or potential threat to human health...when improperly stored, treated, transported, disposed of, used, or otherwise managed. (310 CMR 40.0006)

## Is Asbestos Regulated Under the MCP?

◆ Has there been a “*release to the environment*” or is there a “*threat of release*”?

- No asbestos-specific exemption to the definition of “*release*” or “*threat of release*.” (310 CMR 40.0006)
- Exemption from definition of “*disposal site*” for any site containing only hazardous material which are building materials still serving their intended use or emanating from such use. (310 CMR 40.0006)

## Are Asbestos Releases “*Adequately Regulated*” ?

◆ **No.**

◆ The MCP waives certain provisions (not all, and generally not the cleanup requirements) for sites being assessed and remediated in an analogous cleanup program. (310 CMR 40.0110)

# MCP Notification Provisions

## ◆ 2-Hour Notification

- Reportable Quantity = 1 pound
  - ◆ A sudden, continuous or intermittent release to the environment
  - ◆ Likely that the release occurred within any period of 24-hours or less
  - ◆ The quantity released is or, if unknown, is likely to exceed the Reportable Quantity
- Conditions which pose, or could pose, and Imminent Hazard 310 CMR 40.0321

# MCP Notification Provisions

## ◆ No 72-hour or 120-day Notification

- No Reportable Concentrations

## MCP Cleanup Provisions

- ◆ A Permanent Solution must achieve a level of No Significant Risk for all oil or hazardous material present at a site
  - Asbestos is a “hazardous material”
  
- ◆ An Activity and Use Limitation is required if restrictions are required to achieve NSR

## MCP Cleanup Provisions

- ◆ Method 1
  - No Method 1 Cleanup Standards
  - Generic cleanup levels would likely fall below 1% (detection limit?) given assumptions about dust generation, asbestos content of airborne dust, etc.
  
- ◆ Method 2
  - Regulations specify equations to use to develop Method 2 standards...they don't really fit asbestos

# MCP Cleanup Provisions

## ◆ Method 3: Site-specific Risk Assessment

- No Exposure = No Risk ... Works for asbestos!
  - ◆ 3 ft clean fill, pavement, building, etc... + AUL
- Background = No Significant Risk...works for asbestos!
  - ◆ Minimizes analytical issues, as you're comparing apples-to-apples
  - ◆ Still have the *usual* issues about how to determine background

# MCP Cleanup Provisions

## ◆ Method 3: Site-specific Risk Assessment, continued

- Quantitative Risk Assessment
  - ◆ Starting from Superfund "tumbler" Method, results in asbestos structures/gram
- "Nondetect" = No Significant Risk
- A default Upper Concentration Limit in Soil of 1% currently applies 310 CMR 40.0996(8)